

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Patentees: David A. Edwards and Jeffery S. Hrkach

Patent No. 7,678,364

Issue Date: March 16, 2010

Confirmation No. 7248

Examiner:

Title: Particles for Inhalation Having Sustained Release Properties

REQUEST FOR RECONSIDERATION OF THE PATENT TERM ADJUSTMENT UNDER 37 CFR 1.705

Dear Sir:

This letter is to request correction of the Patent Term Adjustment (PTA) under Rule 705. The \$200 fee required by Rule 18(e) is enclosed herewith. This application is not subject to a terminal disclaimer.

Pursuant to Rule 703(a)(1), the Office was to grant a term adjustment for the number of days that exceeds 14 months from the filing date of the application to the mail date of the first action on the merits. In this case, the USPTO and Patentees agree that **57** days of delay, ending on July 25, 2002 was incurred.

Pursuant to Rule 703(a)(4), the Office was to grant a term adjustment for the number of days that exceed 4 months after the date of an appeal brief. A brief on appeal was filed December 27, 2004. An Examiner's Answer was mailed May 13, 2005, resulting in a **16** day delay.

Pursuant to Rule 703(a)(5), the Office was to grant a term adjustment for the number of days that exceed 4 months after the date of the Decision considering an allowable claim. The Decision was mailed on February 24, 2009. The Notice of Allowance was mailed on November 23, 2009, resulting in a **152** day delay.

Pursuant to Rule 703(b), the number of days, if any, in the period beginning on the day after the date that is three years after the date on which the application was filed under 35 U.S.C. 111(a) (commencing on March 30, 2004) and ending on the date a patent was issued (March 16, 2010) (2,187 days), are to be included in the PTA, less the number of days beginning with the Notice of Appeal (November 26, 2004) and ending with the Decision on Appeal (February 24, 2009), which is 1,551 days. Thus, the delay under Rule 703(b) is **636** days.

Pursuant to Rule 703(e), the Office was to grant a term adjustment for the number of days beginning with the Notice of Appeal (November 26, 2004) and ending on the date of the Decision (February 24, 2009), which is **1,551** days.

The delays under Rule 703(a)(4) (**16** days) and (5) (**152** days) are overlapping with the periods under Rule 703(b) and (e).

It is not disputed that Patentees incurred a delay of **270** days.

A patent term adjustment of **1,974** days ($57+16+152+636+1551-16-152-270$) is requested.

Respectfully submitted,

ELMORE PATENT LAW GROUP, P.C.

/Carolyn S. Elmore/

By _____

Carolyn S. Elmore

Registration No: 37,567

Telephone: (978) 251-3509

Facsimile: (978) 251-3973

Westford, MA 01886

Dated: **March 8, 2010**